

The Commonwealth of Massachusetts

9th

ANNUAL REPORT

of the

MASS.: ALCOHOLIC BEVERAGES

CONTROL COMMISSION

for the

year ending November 30, 1941

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*The Commonwealth of Massachusetts*

*The Alcoholic Beverages Control Commission*

*Rooms 806-818, 24 School Street, Boston*

To His Excellency, The Governor, and to the General Court of The Commonwealth of Massachusetts:

SIRS: In accordance with the provisions of Section 44 of Chapter 6 of the General Laws, as amended, we have the honor to submit the Ninth Annual Report of the Alcoholic Beverages Control Commission, and of the conduct and condition of traffic in alcoholic beverages during the fiscal year ending November 30, 1941.

The term of Chairman Arthur G. Burtnett having expired on April 7, 1941, he was re-appointed by His Excellency, Governor Leverett Saltonstall, with the advice and consent of the Governor's Council.

In our previous reports we explained in detail the original provisions of our Liquor Control Act and the various Amendments which have been adopted thereto. The following is a brief summary of the Amendments to the Act which were adopted during the Legislative Session of 1941:

1. An Amendment was adopted which gave a Retail licensee for the sale of alcoholic beverages, except those licensed in the City of Boston, a right of appeal to the Commission from the refusal of Local Licensing Authorities to transfer his license from one location to another.
2. An Amendment was adopted which provided that no holder of a license should be deprived of any renewal thereof by reason of any reduction in population in any City or Town as determined by the 1940 Federal Census.
3. An Amendment was adopted which prohibited the sale of alcoholic



beverages on Christmas Day between the hours of one o'clock A. M. and one o'clock P. M. in Hotels, Restaurants, Clubs and Taverns. Prior thereto such establishments were permitted to make sales, under the Law, commencing at eight o'clock A. M. following their usual closing time.

During the year the Commission, with the approval of the Governor and Council, amended three of its Regulations and adopted a new one. Regulations 13 and 18 and 19A were amended so that they now read as follows:

Regulation 13. No licensee shall print, post, publish or use any false or fictitious price list; nor shall any invoice given or accepted by any licensee contain any statement which falsely indicates prices, discounts, or terms of sale; nor shall there be inserted in any invoice given or accepted by any licensee any statement which makes the invoice a false record, wholly or in part, of the transaction represented therein; nor shall there be withheld from any invoice given or accepted by any licensee any statements which properly should be included therein, so that in the absence of such statements the invoice does not truly reflect the transaction involved.

Regulation 18. No licensee shall offer, give, agree to accept or receive any prize, premium, gift or other similar inducement, in any agreement or effort to aid, promote or induce the sale or purchase of alcoholic beverages. The use of any device or game of chance to aid, promote or induce such sales or purchases is also prohibited.

Regulation 19A. No licensee shall buy or sell, or offer or contract to buy or sell, any alcoholic beverages on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a sale or purchase in good faith. This Regulation shall not prohibit the return, or acceptance of the return, of alcoholic beverages for ordinary and usual commercial reasons arising after the merchandise has been sold.

The new Regulation reads as follows:

Regulation 14A. No advertisement pertaining to alcoholic beverages which contains any direct or indirect reference to the price thereof shall be published or distributed in any manner unless it shall state, and be limited to, the full and proper name and address of the advertiser, a true factual description of the advertised product, including its trade or brand name, the price at which a specified quantity is offered for sale, and, at the option of a licensee, the number of any telephone located in his licensed premises. No licensee shall directly or through any agent, employee or other person, distribute any advertisement of alcoholic beverages on any public highway or from house to house or door to door in any city or town unless it shall be contained in a publication of general circulation in common use as an advertising medium.

A statement of the income and disbursement of the Commission follows:



# FINANCIAL STATEMENT

Summary of Income Received from Fees for Licenses and Permits Issued by the Commission under Chapter 138 of the General Laws, as Amended.

Manufacturers' Fees (Section 19)	3 Distilleries) .14 Breweries ) 1 Cider )	\$51,025.00
Wholesalers' and Importers' Fees (Section 18)	82 all alcoholic beverages) 85 wines and malt ) 4 Sacramental wines )	375,500.00
Alcohol Fees (Section 76)	21 licenses for sale of alcohol ) for mechanical, chemical or ) other commercial purposes )	6,300.00
Agents', Brokers' or Solicitors' Fees (Section 18A)	74 licenses	22,200.00
Railroad Fees (Section 13)	5 licenses, 154 cars	654.00
Steamship Fees (Section 13)	7 licenses, 15 vessels	1,500.00
Special Permit Fees (Sections 2, 22A)	61 licenses	313.50
Storage Permit Fees (Section 20)	18 annual, 1 seasonal ) 5 bonded warehouses ) 13 warehousemen )	9,405.00
Transportation Fees (Section 22)	415 express or trucking companies 3 railroad corporations 2 steamship companies	5,595.00
Transportation Fees (Section 22)	4,231 vehicles owned by licensees or their employees	4,231.00
Salesmen's Fees (Section 19A)	1,750 permits, 4 duplicates	17,502.00
Total Receipts		494,225.50

## Statement of Appropriations and Expenditures

### Appropriations

Expenses	\$27,605.00
Brought Forward from the Unexpended Balance of 1940 App'n.	
for 1940 Liabilities paid in 1941	32.00
Transferred from "Small Items" Appropriation	2.41
	27,639.41

### Expenditures

For Expenses	27,639.41
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Appropriations

Personal Services . . . . . \$120,050.00 ✓

Expenditures

For personal services 117,960.00 ✓

Balance Unexpended: Returned to Treasurer and Receiver-General.. \$2,090.00  
↙

The Department of Corporations and Taxation, Division of Excise Taxes, collected the sum of \$9,577,342.34 for taxes on alcoholic beverages sold in Massachusetts during the fiscal year ending November 30, 1941.

*Financial Statement Verified*  
*3/2/42*  
*J. D. MacDonald*  
*Walter S. Morgan*  
*Comptroller*



Local Licensing Authorities are required by the provisions of Section 10A of the Liquor Control Act to file with the Commission during the month of December of each year a report of their actions during the preceding twelve months. Reports filed to date show that the various Cities and Towns which have voted to permit the issuance of licenses for the sale of alcoholic beverages have received a total of \$2,550,526.61 in license fees. Many Cities and Towns had, however, failed to file their reports up to the time of the filing of this report but it is safe to assume that the total amount of the fees paid to Local Licensing Authorities for licenses to sell alcoholic beverages was well in excess of four million dollars.

During the fiscal year Local Licensing Authorities licensed 318 Hotels, 2,361 Restaurants, 489 Taverns, 1,200 "Package Goods" Stores and 702 Clubs for the sale of all kinds of alcoholic beverages. For the sale of wines and malt beverages, or either, they licensed 26 Hotels, 1,168 Restaurants, 13 Taverns, 366 "Package Goods" Stores and 147 Clubs. The said Authorities also issued 308 Seasonal licenses for the sale of all kinds of alcoholic beverages and 62 such licenses for the sale of wines and malt beverages only. Inasmuch as the Commission does not approve licenses which are granted to Druggists under Section 30A of the Act, we cannot state accurately how many such licenses were issued. It is safe to assume, however, that a large proportion of more than seventeen hundred Druggists who held Certificates of Fitness were licensed under Section 30A.

#### APPEALS AND REMONSTRANCES

Section 67 of Chapter 138 of the General Laws as most recently amended, reads as follows:

"Any applicant for a license who is aggrieved by the action of the local licensing authorities in refusing to grant the same or by their failure to act within the period of thirty days limited by section sixteen B, or any person who is aggrieved by the action of such authorities in suspending, cancelling, revoking or declar-

ing forfeited the same, may appeal therefrom to the commission within five days following notice of such action or following the expiration of said period, upon petition in writing, setting forth all the material facts in the case. The commission may, after hearing due notice whereof shall have been given, sustain the action of the local licensing authorities or may sustain the appeal, in which latter case it shall set forth in writing in its decision its reason therefor, and the decision of the commission shall be final; but, pending a decision on the appeal, the action of the local licensing authorities shall have the same force and effect as if the appeal had not been taken. Upon the petition of twenty-five persons who are taxpayers of the city or town in which a license has been granted by such authorities or who are registered voters in the voting precinct or district wherein the licensed premises are situated, or upon its own initiative, the commission may investigate the granting of such a license or the conduct of the business being done thereunder and may, after a hearing, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.

"If the local licensing authorities fail to issue a license or to perform any other act when lawfully ordered so to do by the commission upon appeal or otherwise, within such time as it may prescribe, the commission may itself issue such license or perform such act, with the same force and effect as if issued or performed by the local licensing authorities."

During the fiscal year ending November 30, 1941, there were 123 appeals filed with the Commission by applicants for licenses who were aggrieved by the action of Local Licensing Authorities in refusing to grant the same or by their failure to act within the said period of thirty days. In 56 cases the Commission sustained the action of the Local Licensing Authorities in refusing to grant the licenses. Thirteen appeals were sustained by the Commission and the Local Licensing Authorities were ordered to grant licenses to the appellants who had appealed. In three instances the order was not complied with and the Commission issued the licenses in accordance with the applications. Forty-one appeals were dismissed and 13 others were withdrawn either before or after hearing thereon.

Eighteen licensees filed appeals with the Commission because they felt aggrieved by the action of the Local Licensing Authorities in suspending or revoking their licenses to sell alcoholic beverages. The appeal of



one appellant was dismissed; four appeals were withdrawn before or after hearing; the finding of guilty by the Local Licensing Authorities was not sustained in another case. In the remaining twelve cases the action of the Local Licensing Authorities was sustained.

Two remonstrances against the continuance of licenses were received and were subsequently dismissed.

All appeals and remonstrances were disposed of during the year.

#### LAW ENFORCEMENT

Pursuant to established policy the Commission required its Investigators to investigate and submit written reports upon all applications for licenses which were submitted by Local Licensing Authorities for consideration.

Investigators also investigated 1,204 complaints alleging violations of the provisions of the Liquor Control Act in licensed premises. In 535 cases no evidence was obtained to support the complaints. In 233 cases complaints against licensees or their employees were sought and secured in the District Courts. Evidence obtained in 436 cases was referred to Local Licensing Authorities for their determination. In such cases Investigators testified at hearings before the said Authorities.

We present a brief summary of the number and nature of the complaints investigated and prosecuted, together with a statement of the disposition made in each case.



Complaints Referred to Local Licensing  
Authorities:  
1941

	No Completed Investigations	Condition Corrected	Licenses Revoked	Licenses Suspended	Licenses Surrendered	Licenses Cancelled	Licenses Warned Filed	Hrs. of Sale Modified	Licenses Modified	Charges Not Sustained	Penalty Imposed Suspended
Adulteration	1						1				
Clubs-Sales to non-members	9	1					7			1	
Condition of Premises Unsatisfactory	23	6		8			4				1
Exterior Signs Illuminated Sunday	5	4					1				
Gaming on Premises	19	1		8			10				
Illegal Sales	2	1					1				
Illegal Transportation	19	18	1								
Improper Advertising	129	12		16			101				
Improper Labels	5			1			4				
Improper Entertainment	1						1				
Importing without License	1						1				
Insufficient Lighting	1						1				
Lack of Restaurant Equipment	6			4			2				
Minors Employed	12	4		3			2			1	2
Permitting Illegality on Licensed Premises	8			4			3				1
Purchasing A.B. from other than Licensed Wholesaler	3			1			2				
Purchasing containers of less than 1/5	1						1				
Prices visible from street	7	2		1			4				
Sales Below Posted Price List	3						3				
Sales not Recorded by Druggists	2			1			1				
Sales to Minors	59			38			18			2	1
Sales-Clubs, Restaurants-Consumption off Premises	8			3			5				
Sales Intoxicated Patrons	40	1	2	22			14				1
Sales A.B. on W-M License	3						3				
Sales to Non-Licensees	3	1	1	1							
Sales Outside Legal Hours	25			8	1		14			2	
Sales-Pkge Stores-To be Drunk on Premises	5	1		4							
Sales Without Charge	1										1
Salesmen-Soliciting without Permit	4	4									
Sanitation	17	2		13			2				
Solicitors, Agents, Brokers-Acting without License	7	7									
Substitution	7			3			4				
	436	65	4	139	1		214			6	7

The Commission also found it necessary to take action against one Restaurant licensee for the sale of all kinds of alcoholic beverages for the reason that physical force was used in the hindering and delay-

# Cases Referred to Local Courts:

1941

	No. Complain Issued	Finding Guilty	Finding Not Guilty	Placed on File	Jail Sentences	Fines Imposed	Probation
Clubs-Sales to non-members	8	8		1		7	
Condition of Premises Unsatisfactory	1	1		1			
Hindering Investigator	3	3				3	
Illegal Sales Alcoholic Beverages	16	16		3		13	
Illegal Transportation	1	1				1	
Keeping and Exposing	9	9		2		6	1
Minor Employed	3	3				3	
Permitting Gaming on Licensed Premises	1	1				1	
Permitting Illegality on Licensed Premises	6	5	1	2		3	
Sales Outside Legal Hours	122	120	2	22	1	95	2
Sales A.B. on W-M License	11	10	1	2		8	
Sales Sunday without Prescription	18	17	1	2	1	14	
Sales to Minors	2	2				2	
Sales Intoxicated Patrons	1	1		1			
Sales Not Recorded by Druggists	3	3		2		1	
Sales-Clubs, Restaurants-Consumption off Premises	24	24		2	3	19	
Sales-Pkge Stores-Consumption on Premises	1	1				1	
Sanitation	1	1		1			
Substitution	2	2		2			
	233	228	5	43	5	177	3



## HOTELS

We have no information which would lead us to believe that the conclusions with respect to the sale of alcoholic beverages in Hotels as expressed in our last year's Annual Report were not justified. Grouped together Hotel management has apparently realized and recognized its responsibilities to the general public. Initially, as we have so often stated, it was their duty to become prime movers for the proper observance of the Liquor Control Act in their respective establishments. It is not now necessary to comment on the fact that a minority did not do so in the beginning. The fact is that in our opinion they are doing so now with practical unanimity.

## RESTAURANTS

This Report is for the first full fiscal year since the Commission inaugurated its policy of having complaints secured in the District Courts against licensees or their employees who sold alcoholic beverages outside the hours prescribed by the Liquor Control Act. It will be remembered that this policy had been in effect for only a portion of the last previous fiscal year. Unfortunately, some licensees, a large number of whom are Restaurant licensees, have not yet learned that the sale of alcoholic beverages outside hours will not be tolerated. Every Restaurant licensee against whom our Investigators secured evidence of such sales was prosecuted in the Courts and in many instances was further penalized by reason of action by the Licensing Authorities against his license. Sales outside hours were never general but they were too prevalent. We can safely state that there has been a noticeable betterment of conditions but it is evident that particular vigilance in this matter must continue to be exercised.

The situation with respect to sales to minors has not been such as to cause the Commission to conclude that all such violations should be prosecuted.

ed in the Courts. It will be recalled that we stated last year that such a policy was under consideration and might be inaugurated if it was found to be necessary. We realize that licensees must exercise the greatest degree of supervision and be on the alert at all times if sales to minors are to be prevented. Nevertheless it is a responsibility which they assume when they become licensed and they must therefore be held to account for all such sales within their respective licensed establishments.

We are of the opinion that there still are a large number of Restaurant licenses for the sale of alcoholic beverages for all days of the week which might well be converted into licenses for sales on secular days only.

#### TAVERNS

Nothing occurred during the past fiscal year which would cause the Commission to reach different conclusions than those which have frequently been expressed in our Annual Reports with respect to the sale of alcoholic beverages in Taverns. The sale and service of alcoholic beverages as authorized by Tavern licenses has proven to be a sound method for the sale of alcoholic beverages for on premises consumption. As a group they have maintained a high degree of compliance with the provisions of the Liquor Control Act and we have every reason to believe that they will continue to do so.

#### CLUBS

There are probably no provisions in the Liquor Control Act to which study and consideration might more properly be given than to those which relate to the granting of licenses for the sale of alcoholic beverages to Clubs. There are, of course, many legitimate Clubs which were properly organized and have continued to operate with full regard for all Laws of the Commonwealth including the Liquor Control Act. If this group of Clubs were the only ones with which the Licensing Authorities had to deal the



present provisions of the Act might properly be said to be adequate.

However, it must be remembered that there are also many Clubs of the type to which we have frequently referred as "one man" organizations. It is for the purpose of more easily and effectively controlling the sale of alcoholic beverages in these establishments that we believe the Liquor Control Act and certain pertinent related provisions of the General Laws might well be amended.

Last year we pointed out the situation with respect to notice to the State Secretary of conviction for a violation of either the gaming or alcoholic beverages laws in any Club premises. A perfecting Amendment to the provisions of the General Laws with respect to the sending of this notice would undoubtedly be effective.

It is our opinion also that the Liquor Control Act should make more specific reference as to the suitability and character of officers who supervise the sale of alcoholic beverages.

All of these matters and others relating to Clubs will undoubtedly receive the especial attention of the Special Recess Commission.

#### "PACKAGE GOODS" STORES

In our Annual Report for the fiscal year ending November 30, 1939, we commented as follows:

"Generally speaking conditions surrounding the sale of alcoholic beverages in "Package Goods" Stores were satisfactory. This is no doubt largely responsible for the very strong degree of public support afforded to the present system of dispensing alcoholic beverages in packages under license in this Commonwealth. It should be evident to such licensees that their stores shall be operated in a manner which will in all respects meet with public approval if they are to retain this support. Obviously such support is vital to the continued enjoyment of the privileges which they enjoy under their licenses."

In our Annual Report for the fiscal year ending November 30, 1940, we commented as follows:

"An analysis of the vote taken at the recent State election with

reference to the preference of the voters on the question of the issuance of licenses for the sale of alcoholic beverages shows a preponderantly large number of the voters favored the sale of alcoholic beverages in "Package Goods" Stores. Such action on the part of the general public is an eloquent expression of approval of the satisfactory manner in which the business of this branch of the industry is being conducted."

These observations have proved to be well-founded. It is not strange, therefore, that there has been a definite lack of support for any movement to change our Liquor Control Act so as to provide for the "State Store System" of selling alcoholic beverages.

It is apparent that much more work remains to be done if many Druggists who hold Certificates of Fitness or licenses are to be made to realize that they are not immune from compliance with the provisions of the Liquor Control Act.

#### GENERAL REMARKS

In our last Annual Report we dealt with the situation regarding added responsibilities of the Commission with respect to certain areas of the Commonwealth wherein the personnel of the Army, Navy and Defense Industries are housed. In that connection, we said:

"During the latter part of October and the early part of November, the Commission made preparations for meeting changed conditions which might result due to the concentration of thousands of men in those areas of the Commonwealth wherein naval and military bases and defense industries were already located or about to be constructed. Having in mind the splendid record which was made by Massachusetts under similar conditions in the past, the Commission took the view that a policy dictated by sound reason and common sense would be best calculated to maintain the orderly and lawful conduct of the business being done in premises licensed for the Retail sale of alcoholic beverages. Immediately thereafter Representatives of the Commission conferred with the appropriate officers and officials of all of the army, navy and defense industry establishments for mutual discussion and for the purpose of giving assurances that they might expect the fullest degree of co-operation from the Commission in all matters of mutual interest. It is, of course, too early to predict what the outcome of these efforts will be but we have every reason to believe that so far as Massachusetts is concerned licensees, members and officers of the armed forces, defense workers, Licensing Authorities and the general public will co-operate to maintain and stabilize proper conditions with respect to the sale of alcoholic beverages in all affected areas."



Results have proven that the Commission was not unduly optimistic in its statement as to the results that would be obtained by pursuing the course of action then outlined and which has been followed since.

In the beginning of this Report we called attention to the fact that a Regulation had been adopted which put further restrictions on the advertising of alcoholic beverages. The curtailment of certain forms and methods of advertising indulged in by a relatively small number of licensees was unquestionably warranted. We assume that the general public has noticed the improvement in the tone of advertisements of alcoholic beverages since the adoption of the Regulation.

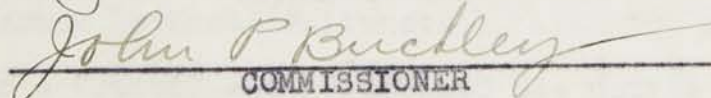
The fact that the Legislature enacted a Resolve for an investigation and study by a Special Commission relative to the Laws of the Commonwealth relating to alcohol and alcoholic beverages and to Common Victuallers is gratifying to this Commission. Such a study will undoubtedly result in the adoption of such Amendments as experience may have shown to be necessary or desirable.

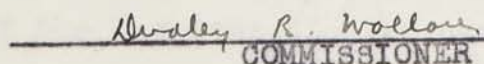
The Joint Committees on Legal Affairs and Ways and Means, the Legislature as a whole, and Local Licensing Authorities have been most co-operative and we desire to express our appreciation therefor.

Respectfully submitted,

ALCOHOLIC BEVERAGES CONTROL COMMISSION

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER